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1 IN THE UNITED STATES DISTRICT COURT FOR THE
2 WESTERN DISTRICT OF PENNSYLVANIA
3 CONSOLIDATION COAL COMPANY,)
4 Plaintiff,)
5 vs.)
6 UNITED STATES DEPARTMENT OF)
7 THE INTERIOR, NATIONAL PARK)
8 SERVICE,)
9 and)
10 CAROL D. SCHULL, individually)
11 and in her capacity as the)
12 Keeper of the National Register)
13 of Historic Places,)
14 and)
15 ROY BRENDDEL and DIANE BRENDDEL,)
16 Defendants.)

Civil Action
No. 00-2120

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DEPOSITION OF: ROY BRENDDEL

17

18

19

DATE: February 9, 2006
Thursday, 9:30 a.m.

20

21

LOCATION: Thorp Reed & Armstrong
14th Floor
One Oxford Centre
Pittsburgh, PA 15219

22

23

TAKEN BY: Consolidation Coal Company

24

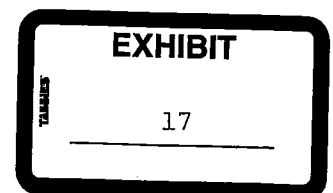
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REPORTED BY: Keith G. Shreckengast, RPR
Notary Public
AKF Reference No. KS92308

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1 DEPOSITION OF ROY BRENDDEL,
2 a witness, called by the Plaintiff for examination,
3 in accordance with the Federal Rules of Civil
4 Procedure, taken by and before Keith G. Shreckengast,
5 RPR, a Court Reporter and Notary Public in and for
6 the Commonwealth of Pennsylvania, at the offices of
7 Page 1



Rbrendel.txt

22 kind of leaning down a little bit. But at the
23 time I didn't know what was going to happen to
24 it.

25 Q. So you put a number on that rock wall also?

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1 A. Yes.

2 Q. How much, sir?

3 A. Probably a thousand dollars, labor.

4 Q. Anything else?

5 A. My outside fences.

6 Q. Barbed wire fences?

7 A. Yes.

8 Q. How many feet?

9 A. 133 acres. I don't know how many feet that is.

10 Q. All of the fence was affected by the mining?

11 MR. HOOK: Hold it, excuse me, Joe,
12 you're misinterpreting his testimony there.
13 He's testifying about the proposal they put
14 together before the mining took place, not
15 after the mining. That's what he's testifying
16 about, so don't say --

17 MR. KATARINCIC: Now that you said
18 it, I understand what you're saying. He did
19 not say that, but I presume you want him to say
20 that.

21 BY MR. KATARINCIC:

22 Q. So why don't we say that's what you're saying?

23 A. You asked me --

24 MR. HOOK: Wait a minute. We'll go
25 back in the testimony. And you be quiet and

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36

1 let me complete what I'm saying. You're asking
2 him where he got this 3 million dollar number,
3 Mr. Katarincic. That number was offered at a
4 meeting with Mr. Jenkins before the mining took
5 place. That's the testimony of record. If you
6 deny that, we'll go back through here in detail
7 and he can read it back to you. Don't insult
8 me with inaccurate statements on the record.

9 MR. KATARINCIC: All I asked you was
10 what made up the \$3 million.

11 MR. HOOK: Correct, and that was an
12 offer made before the mining. Understood?

13 BY MR. KATARINCIC:

14 Q. Do you hear what he wants you to say?

15 MR. HOOK: No, do you understand,
16 Mr. Katarincic? You apparently want to
17 misrepresent the record. Do you understand
18 that now, or do we need to go back and
19 establish the record accurately?

20 MR. KATARINCIC: Please keep your
21 voice down.

22 MR. HOOK: Please answer my question.

23 MR. KATARINCIC: You're acting very
24 unprofessional.

25 MR. HOOK: No, I'm not, you are. You

37

1 repeatedly misrepresent the record, purposely.
2 That's unprofessional. Now do you agree that's
3 what the record states or not? Because if you

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4 won't to agree, we'll have him go back and read
5 us the record.

6 BY MR. KATARINCIC:

7 Q. When you met with Mr. Jenkins, you gave him the
8 \$3 million number, what made up the \$3 million,
9 that's all I'm asking, and that's all I've been
10 asking?

11 MR. HOOK: Are you aware that was
12 taking place before the mining occurred or not,
13 Mr. Katarincic?

14 MR. KATARINCIC: My question --

15 MR. HOOK: You're saying to my client
16 well, did that get damaged. Of course it
17 didn't get damaged, it wasn't mined yet. How
18 could it get damaged before the mining? That's
19 insulting to him, and it's insulting to me.
20 And it's a waste of our time.

21 MR. KATARINCIC: Are you finished,
22 sir.

23 MR. HOOK: Yes.

24 BY MR. KATARINCIC:

25 Q. What I asked you was what made up the \$3

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38

1 million when you met with Mr. Jenkins. Did you
2 understand that?

3 A. Yes.

4 Q. Now that's what I've been asking you. So what
5 else was involved in this \$3 million number you
6 gave Mr. Jenkins?

7 A. I started to say the fencing.

8 Q. How much did you put in for that, sir?

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- 9 A. I would guess, it's been a long time, I'd say
10 probably close to \$20,000 to put a fence up
11 around 133 acres.
- 12 Q. I'm just asking for the number, sir. I'm not
13 challenging you. What else is included in that
14 \$3 million number?
- 15 A. The ornamental fencing that's right around the
16 house itself, and the driveway.
- 17 Q. Is that not included in the Mr. Davis bid?
- 18 A. His was the structure only.
- 19 Q. So you had ornamental fencing. How much did
20 you put in for that?
- 21 A. I would say probably about 15,000.
- 22 Q. What else? What else was included in the 3
23 million?
- 24 A. Did I mention the landscaping?
- 25 Q. Alright, sir.

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39

- 1 A. 20,000.
- 2 Q. That's landscaping around the structure?
- 3 A. This is to replace the landscaping that the
4 Major -- when we got the place, we got all the
5 plants. The Major took care to plant things in
6 specific places. A lot of that we assumed
7 would be bulldozed over and things like that,
8 because I had seen that in neighboring
9 properties. They run machines in there and
10 you're going to tear stuff up.
- 11 Q. I'm just asking you the number?
- 12 A. \$20,000.

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- 13 Q. what else, sir?
- 14 A. It's been a long time since I thought about
- 15 that.
- 16 Q. I understand.
- 17 A. At this time I can't recall any other ones.
- 18 Q. Just to help me, the 400 bales of hay twice a
- 19 year, did you, yourself, cut that hay and
- 20 bundle it?
- 21 A. I had neighbors bundle it for me. My
- 22 brother-in-law did it. I don't own a tractor
- 23 myself. But I would bale it. It had to be cut
- 24 by somebody's tractor, but we baled it and used
- 25 it, and stored it on the property.

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40

- 1 Q. And what did you do with it?
- 2 A. My brother-in-law, well, we had a horse. My
- 3 daughter had a horse. And it takes a lot of
- 4 hay to feed a horse over the winter. And my
- 5 brother-in-law has horses, and cows. And I
- 6 shared a lot of hay with him, because he helped
- 7 keep the fields cut and everything.
- 8 Q. What else did you do with it, if there was
- 9 anything else?
- 10 A. We had to buy hay in addition to what I had.
- 11 Q. So if I understand correctly, and if I don't
- 12 please correct me, you would have 400 bales of
- 13 hay twice a year?
- 14 A. That's correct.
- 15 Q. And that hay was used for the animal, your
- 16 daughter's horse, and your brother-in-law's
- 17 animals?

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18 A. Correct.
19 Q. Any other use made of that hay?
20 A. Yeah, my brother-in-law used that hay for mulch
21 for his greenhouse business.
22 Q. What other use?
23 A. That's about it.
24 Q. Did you sell any of it on the market to
25 anybody?

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41

1 A. No.
2 Q. So the hay, the 800 bales a year, were used by
3 your family, your daughter, brother-in-law and
4 so forth?
5 A. Right.
6 Q. There was no residue after that for sale?
7 A. No, I didn't sell it, no.
8 Q. Let me see if I have all the items. If I've
9 missed any, it's because I can't read my own
10 handwriting. As I have it, I have 1.8 million
11 for the Thrall House?
12 A. Uh-huh.
13 Q. 250,000 for the Apple House; is that correct?
14 For the pigpen I have 20,000 bucks; is that
15 correct?
16 A. Yes.
17 Q. Then we had a chicken house that was \$20,000?
18 A. Yes.
19 Q. Then I have 25,000, what was that? What would
20 have been the 25,000 for?
21 A. Maybe the sheep -- do you have the number on

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22 the sheep pen?

23 Q. Okay. Then I have 50,000. What was that for?

24 50 and then 40, what were those for?

25 A. That was a horse barn was 50, and the car barn

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42

1 was 40.

2 Q. I'm sorry, that's correct. Then I have 20,000

3 bucks for fencing. I have ornamental fencing

4 15,000, landscaping 20,000, a basketball court

5 a thousand dollars, rock walls a thousand

6 dollars. What I didn't write down and you gave

7 it to me was the swimming pool, what was that?

8 A. 25.

9 Q. 25,000. Any others, sir?

10 A. I know another -- when you build a swimming

11 pool, you've got to wait a year for the ground

12 around it. You dig it up, and you have to

13 wait. I had patios all around it. So probably

14 about 2,000 to put all, like putting a sidewalk

15 in, cement patio.

16 Q. Pardon me?

17 A. It's like a cement walkway right around the

18 pool, so you don't get your feet dirt into it.

19 Q. Was there a sidewalk there before?

20 A. Yes, when the --

21 Q. You put that in when the pool was dug?

22 A. Yes.

23 Q. Wasn't there a hole already for the pool?

24 A. Yes, but when you -- that pool is completely

25 disintegrated. If you want to replace that

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43

1 pool, you've got to start from scratch.
2 Q. So there's 2,000 bucks for a sidewalk around
3 the pool?
4 A. Yes.
5 Q. Anything else?
6 A. Let's see, you've got the figures.
7 Q. We didn't put a number on the slips, did we?
8 what number did we put on the slips?
9 A. I know we talked about the slips. What was the
10 number?
11 Q. You did mention the slips.
12 A. As I said, this is before the mining. This was
13 a contingency. We don't know whether there was
14 going to be slips. Why don't you take 3
15 million and subtract everything there and take
16 that number for the slips.
17 MR. HOOK: There was no number placed
18 on replacing four water sources either.
19 Q. What was that number, sir?
20 A. Didn't I mention water?
21 Q. You mentioned the sources, but no number. What
22 was the number for the water?
23 MR. HOOK: There's four water
24 sources.
25 A. I would say 25,000 apiece.

44

1 Q. So that's \$100,000. Have you lost those
2 sources of water now?
3 A. Every one of them.

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- 4 Q. And what are you doing for water?
- 5 A. Water buffaloes for six years as a matter of
- 6 fact. I'm glad you mentioned it, they just
- 7 hooked up my city water a week ago.
- 8 Q. You have city water now?
- 9 A. Yes, but I've had water buffaloes for six
- 10 years.
- 11 Q. Did you have city water before?
- 12 A. No.
- 13 Q. Who paid for hooking up the city water?
- 14 A. Consol.
- 15 Q. Now describe these slips. I know you said it's
- 16 land that you anticipate would slide into the
- 17 road or into your neighbor's property?
- 18 A. Yes. See, I have a lot of hilly land. A lot
- 19 of it's timber, a lot of it's forest. And you
- 20 get slips, and it erodes your property, it
- 21 devaluates it. And you've got problems with
- 22 getting in there with lumber roads and things
- 23 like that. And slips will cause trees and
- 24 things to fall down, too. There's no end to
- 25 what you could imagine could happen.

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- 1 Q. Did you have any slips?
- 2 A. Not yet, as far as I know.
- 3 Q. When was the mining completed?
- 4 A. Mining was in the year 2000, the actual going
- 5 under the property was the year 2000.
- 6 Q. Have you had anybody in, any expert to give you
- 7 any opinion as to whether there was any serious
- 8 risk of a slip, from this day forward?